

**STATEMENT OF LISA ROSENBLUM  
SENIOR VICE PRESIDENT, REGULATORY AND LEGAL AFFAIRS  
TELEPHONY AND DATA SERVICES  
CABLEVISION SYSTEMS CORPORATION**

**before the Subcommittee on Communications  
U. S. Senate Committee on Commerce, Science and Transportation**

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Thank you, Mr. Chairman and members of the Subcommittee for your kind invitation to participate in this important hearing. My name is Lisa Rosenblum. I am Senior Vice President of Regulatory and Legal Affairs of the Telephony and Data Services division of Cablevision Systems Corporation, the sixth largest operator of cable systems in the nation. Prior to joining the company in June 1996, I was a Commissioner and Deputy Chair of the New York State Public Service Commission. I also chaired NARUC's Communications Committee. In that capacity, I worked with this Subcommittee and the Commerce Committee in framing the Telecommunications Act of 1996.

**Cablevision Lightpath**

At Cablevision, we are pursuing the market opportunities created in light of the 1996 Act. Cablevision Lightpath, our telephone subsidiary, is a facilities-based local competitor that began providing telephone service to commercial customers in New York in 1994, and is now authorized to provide service in Connecticut, New Jersey, Ohio and Massachusetts. Consistent with the Act and aided by the pro-competitive policies of the New York Commission, Cablevision Lightpath has entered into a comprehensive interconnection agreement with Bell Atlantic for New York. It also recently finalized an agreement with Southern New England Telephone for Connecticut.

Today, Lightpath provides telephone service to nearly 1000 businesses on Long Island with over 25,000 access lines. The company has installed switches on Long Island and in Connecticut and is building out fiber to provide an array of advanced services to its customers. Late last year, Cablevision introduced its first telephone offering to residential customers on Long Island, using its upgraded hybrid fiber-coax network. The initial results of our roll-out are positive: our technology is working well; our pricing is innovative and competitive; and, most important, customer response has exceeded our expectations.

The momentous transition to a competitive local telecommunications marketplace is entering a critical stage. The FCC and State commissions have made progress, despite the overhang of litigation, in mapping out the rules of the road for entering the local telephone market. Numerous carriers, including Cablevision Lightpath, have entered into comprehensive interconnection agreements with the incumbent carrier. While carriers are now poised to enter the local market, significant residential competition has not yet emerged and obstacles remain to full deployment of competitive local exchange service.

From our own experience, it is clear that our ability to become a formidable competitor of telephone service depends, to an important degree, on interconnection services provided by the incumbent carrier. The performance standards embodied in our interconnection agreement are necessary protections as we build our business.

The debate over the implementation of Section 271 -- one of the cornerstones of the Act - - provides an important opportunity to assess the implementation of the Act and identify the issues that need to be addressed to make competition a reality. In my testimony, I will discuss the continuing need for careful evaluation of Section 271 applications. I will also suggest a post-

entry framework that relies on self-executing performance standards to provide the RBOCs with ongoing incentives to meet their interconnection commitments. Such a framework will give us the confidence to make continued investments in the provision of competitive local exchange services.

### **The Section 271 Process**

This hearing reflects the ongoing scrutiny of the Section 271 process, particularly the steps that the Bell companies must take to gain regulatory approval to enter the long distance market under that process. As a local competitor in New York, Lightpath has been actively engaged in the Section 271 proceeding before the New York Public Service Commission. As you know, just last week the Commission's staff released proposed conditions on the grant of Bell Atlantic's 271 application in New York. While certain modifications are needed to ensure that the requirements achieve the Commission's goal of open local markets, we believe the New York Commission has moved the process forward constructively by identifying the critical elements that must be in place prior to the grant of any such application. In particular, the Commission staff has recognized the importance of post-entry safeguards and developed performance standards to prevent "backsliding" by Bell Atlantic after it enters the long distance business.

Our experience in New York unequivocally suggests that the incentives created by Section 271 contributed to Bell Atlantic's interest in taking steps to open its market, consistent with the competitive checklist. Specifically, we were able to negotiate a comprehensive interconnection agreement with Bell Atlantic – without resorting to arbitration – because the 1996 Act requires a Bell company to enter into an agreement with a facilities-based carrier before it can offer long distance service. This agreement provides a solid foundation for building our business, and

establishes the rates, terms and conditions to govern the provision of the interconnection services necessary for Lightpath to compete. A key element of the agreement is simple, incident-based performance standards and financial penalties for Bell Atlantic if it fails to perform in accordance with those standards, which I will describe in more detail in a moment.

The importance of Section 271's incentives is borne out by our experience with Bell Atlantic in negotiations for interconnection agreements in New Jersey, Massachusetts and part of Connecticut, where long distance entry does not appear to be a priority for them. To facilitate our entry into our markets and avoid time-consuming negotiations and regulatory processes, we proposed to Bell Atlantic that we simply incorporate the terms of our New York agreement in agreements for these States, subject to State commission rules. Bell Atlantic, to our surprise, rejected our request, stating that it does not want to be subject to the same specific performance standards it voluntarily agreed to in New York! Our company will now be forced to spend the time and resources necessary to litigate each agreement in each State, unless it is made clear that such protections are an integral element of the competitive framework.

Encouraging the Bell operating companies to apply agreements they negotiate in one State to another that they serve, subject to State commission approval, would simplify the interconnection negotiating process and facilitate the kind of competition that you and other members of Congress expect from the 1996 Act.

### **Performance Standards and Post-Entry Safeguards**

While the desire to gain entry to the long distance market provides a powerful incentive for the Bell companies to enter agreements and provide interconnection services in a timely fashion prior to entry, competitors such as Lightpath must look at the long term landscape of the

telecommunications marketplace in considering whether to commit additional resources to providing local telephone service.

Facilities-based competitors will remain dependent on the incumbent carrier for the timely provisioning of certain wholesale services -- such as interoffice trunks, and the “porting” of numbers that enables residential customers to keep their phone numbers when they change carriers. Our willingness and ability to continue to make the substantial investments needed to be a true alternative for local service depends on our confidence that the incumbent will still have the incentives to provide these wholesale services on a timely and reliable basis even after the incumbent enters the long distance marketplace.

On an ongoing basis, therefore, we must have in place appropriate incentives to ensure the post-entry provision of necessary interconnection services. Creating this incentive does not require substantial regulatory involvement, however, if the incumbent will agree to carrier-specific performance standards and self-executing enforcement mechanisms. Consistent with our New York interconnection agreement, such standards and the accompanying enforcement mechanisms – in the form of incident-based liquidated damages – can and should be specifically delineated so that they are clear to both RBOC and competitor. The enforcement mechanism would be triggered automatically, without complicated calculations, if the incumbent fails to meet the standards set forth in the agreement.

It is critical that the performance standards and corresponding penalties be developed for each carrier individually. If the incumbent’s performance is measured in the aggregate, it might satisfy its performance standards for competitors as a group even if it fails to meet those standards with respect to a particular carrier. In our agreement with Bell Atlantic, Bell Atlantic has

committed to specific performance standards in the provisioning of trunks, number portability, unbundled elements and other aspects of interconnection. Under the terms of our agreement, if Bell Atlantic fails to perform a specified levels -- to provide trunks within established timeframes, for instance, or restore service outages as promised -- it voluntarily agreed to pay Lightpath damages based on a mutual recognition that these failures could cause the potential loss of business to Lightpath.

The importance of these performance standards is self-evident. When an incumbent fails to provide service in a timely and accurate fashion, it degrades a competitor's operations and planning, and interferes with customer service. Our experience in our initial roll-out of our competitive residential service on Long Island underscores this point. Many customers predictably sought to retain their Bell Atlantic number when they signed up for our service. Consequently, Bell Atlantic was required to "port" the customer's number to our switch, a process that occurs at the central office. In a significant number of cases, Bell Atlantic failed to port the number in the designated timeframe, leaving the customer without incoming service for substantial periods of time. While it is likely that such problems simply occur due to inadvertence, customers will blame the competitor rather than the incumbent and may come to believe that the competitor is unable to provide the high level of service they demand.

### **Performance Standards and Post-Entry Safeguards are Inherent in the Checklist**

We believe that effective post-entry enforcement and performance standards are inherent in the 14-point checklist; they are not an extension of the checklist. To the contrary, the conferees on the 1996 Act stated explicitly that a facilities-based competitor must be "operational" and the checklist must be "fully implemented" before the FCC may grant a 271

application. In order to ensure compliance with the checklist is not a transitory matter -- that the FCC is not limited to the draconian remedy of revocation if an RBOC backslides on the checklist -- there must be a mechanism for enforcing compliance. Indeed, the enforceability of the checklist items is part and parcel of the checklist itself.

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As this Subcommittee recognizes, the debate over Section 271 will have a profound impact on the competitive nature of the local exchange marketplace. While there are varying and strongly held views on whether Section 271 is being applied correctly, Cablevision's primary interest is to ensure that the framework is in place that supports our ability to continue to roll-out an array of advanced competitive telecommunications services in our key markets. Section 271 is a key incentive to ensuring open market conditions and careful evaluation of its applications is yielding a valuable template for entry. As part of this template, the incorporation of simple, self-executing performance standards and enforcement mechanisms is essential to the growth of facilities-based competition -- particularly once the carrot of long distance entry is removed.

Thank you, Mr. Chairman and members of this Committee for the special opportunity to appear before you today.